APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,665	08/29/2000	Robert Daniel Maher III	NR-5	1352

7590 02/26/2004		EXAMINER
Craig J Cox		MEISLAHN, DOUGLAS J

ART UNIT	PAPER NUMBER
2137	

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DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.		Applicant(s)
Office Action Summary	09/651,665		MAHER ET AL.
	Examiner		**Art Unit**	
	Douglas J. Meislahn		2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-18_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Specification

1.   The abstract of the disclosure is objected to because "is" should be "are" in the

second line. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

4.   Claim 1 recites the limitation "the signature" in the fifth line. There is insufficient

antecedent basis for this limitation in the claim. Change "the" to "a".

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

6.   Claims 1, 3, and 6-16 are rejected under 35 U.S.C. 102(b) as being anticipated

by Chen et al. (5832208).

In figure 3, Chen et al. present a method for removing viruses from e-mail

messages. Element 235 anticipates scanning an e-mail message, and hence the data

packets from which the message is made. Lines 11-17 of column 5 indicate that the

messages can be flowing over the Internet. Thus, the first clause of claim 1 is anticipated. Element 200, which detects attachments, anticipates the third clause. Element 215, which detects viruses, anticipates detecting a known virus. Signature recognition, and hence the entire scope of the second clause, is taught in lines 46-52 of column 2. Element 255 deletes infected attachments, which is a form of bit alteration that inoculates the e-mail. Element 270, which is used to "cure" the attachment, would also affect some alteration of the attachment's bits. Either element anticipates the final clause of the first claim.

The agent, element 110, and the discussion in lines 18-67 of column 5 and lines 1-8 of column 6 anticipate claim 3. Line two of column 6 specifically says that the agent operates in real-time. Chen et al.'s focus on attachments as containing viruses anticipates claim 6. Claims 7 and 8 are anticipated by Chen et al.'s mention of virus signatures. Figure 3 makes clear that data is recognized as e-mail before being scanned for viruses. Claim 10 is a device for performing claims 1, 3, and 7. Claims 12 and 14 are anticipated by the discussion of periodic scanning in 57-60 of column 5. The limitations of claims 11 and 15 are met by element 215, which is not described as being limited in its scanning powers. Claim 13 is anticipated because e-mails include a variety of data, date and time of transmission, sender, recipient, etc., that uniquely identifies an e-mail message. Claim 16 is anticipated by the description of virus detection by signature comparison.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

8.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et

al. in view of Templeton (6401210).

        Chen et al. present a system that cures virus-ridden e-mail messages. They do

not say that the cure is to write over the virus with a predetermined value. In lines 36-37

of column 1, Templeton teaches writing over a virus with a string of zeros as a

technique to cure a document. Therefore it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to cure the e-mail in Chen et

al. according to the well-known technique taught by Templeton.

9.   Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chen et al. in view of Kuo et al. (6230288).

        Chen et al. present a system that cures virus-ridden e-mail messages. Chen et

al. specifically teach analyzing e-mail attachments, not the text of the e-mail. Kuo et al.

mention that a virus can now be implemented in ASCII text; ASCII text is used to create

e-mail text. Therefore it would have been obvious to a person of ordinary skill in the art

at the time the invention was made for Chen et al. to combat the problem taught by Kuo

et al. by scanning ASCII text in the e-mails.

10.   Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Chen et al.

Chen et al. present a system that cures virus-ridden e-mail messages. Chen et

al. check potentially infected data against known signatures. The known signatures

comprise a database. Chen et al. do not say that the database is recompiled at a

server upon an update or that the update is sent directly to the database for update.

Official notice is taken that it is old and well-known to recompile a database at host and

reload the entire database and to add new entries to a database directly. While the

latter is more efficient in that there is less data transmitted, the former guards against

the degradation of the database. Therefore it would have been obvious to a person of

ordinary skill in the art at the time the invention was made for Chen et al. to update the

virus signatures by either receiving specific updates or by receiving replacement lists of

virus signatures.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure: O'Neal et al. (6640242) – lines 44-58 of column 21; Dickinson, III

et al. (6609196) – lines 49-67 of column 5; Hyppönen et al. (6577920) – entire

document and especially the paragraph spanning columns 1 and 2; O'Neal (6411685) –

lines 48-62 of column 6; Schneider et al. (6408336) – ASCII viruses, paragraph

spanning column 41 and 42; Maher, III et al. (6381242) – same inventor and filing date

as the current application and thus not prior art; Hodges et al. (6269456) – entire

document and especially lines 33-55 of column 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached on between 9 AM and 6 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas J. Meislahn
Examiner
Art Unit 2137

DJM